

REMARKS/ ARGUMENTS

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

35 U.S.C. § 251 Rejections

Examiner rejected claims 1-32, 35-43, 45-48 and 52 under 35 U.S.C. § 251 as being based upon a defective reissue oath under 35 U.S.C. 251 as stated in paragraph 3 of the first action.

The examiner states the oath/declaration is improper. Applicant has re. The revised declaration states:

Applicant believes the original patent to be partially inoperative or invalid by reason of the patentee claiming less than patentee had the right to claim in the patent. Claim 1 as issued includes the excess limitation of the inlet port located near a center of the air duct. Applicant believes the inlet port does not need to be limited to being located near the center of the air duct for patentability.

Applicant has also further revised the declaration to state all errors arose without deceptive intent. An unsigned copy of the revised declaration is enclosed for the examiner's consideration.

35 U.S.C. § 251 Recapture Rejection

Examiner rejected claims 28-32, 35-43, 45-48 and 52 under 35 U.S.C. § 251 as being an improper recapture as explained in paragraph 4 of the first action.

Applicant has previously amended the claims to overcome the recapture rejection. For example, claim 28 is amended to have two exit ports, and is also amended to have the heat pipe coupled. Claim 35 is amended to have two exit ports.

35 U.S.C. § 112 Rejections

Examiner rejected claims 30 and 39-42 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has amended the rejected claims to overcome the rejection.

35 U.S.C. § 103(a) Rejections

Examiner rejected claims 1-7, 9-14, 16-26, 28-32, 35-42, 45-48, and 52 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,583,316 (hereinafter "Kitahara").

A PROPOSED MODIFICATION TO A REFERENCE CANNOT CHANGE THE PRINCIPLE OF OPERATION OF A REFERENCE

If the proposed modifications or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the reference are not sufficient to render the claims prima facie obvious. (*In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA); MPEP2143.02)

In the current matter, Kitahara "has as its object the provision of an integral fan type heat-generating element cooling device, that is, a heat sink

system provided integrally with a fan for cooling the heat-generating element . .
." (Kitahara, col. 4, lines 20-25.)

Therefore, to suggest modifying Kitahara to have a heat pipe attached to the heat generating unit and have the heat exchanger coupled remotely from the heat generating unit by way of the heat pipe, would certainly impermissibly change the principle operation of Kitahara. The principle operation of Kitahara being to provide a heat sink system provided integrally with a fan for cooling the heat-generating element.

As a result, applicant's claims are patentable over Kitahara for the reasons stated above.

CONCLUSION

Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call John Ward at (408) 720-8300, x237.

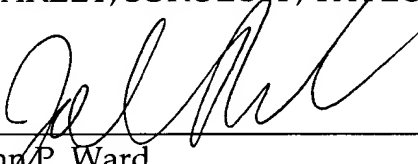
Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: _____

9/7/04



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